

2019 SENATE HUMAN SERVICES COMMITTEE

SCR 4007

2019 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SCR 4007
2/6/2019
Job # 32260

- Subcommittee
 Conference Committee

Committee Clerk Signature: Justin Velez

Explanation or reason for introduction of bill/resolution:

A concurrent resolution urging congress and the Food and Drug Administration to end the marketing and advertising of e-cigarettes to youth.

Minutes:

Attachment #1

Vice Chairman O. Larsen: Opens the hearing on SCR 4007.

Madam Chair Lee: Introduces SCR 4007 and gives a brief description.

(07:09) Braydon Schmidt, Hazelton-Moffit-Braddock High School Student. Offering neutral testimony on SCR 4007. Testimony is as follows.

Braydon Schmidt: What I know of E-cigarettes is that a lot of kids they like the flavors of the E-cigarettes a lot and they don't view it as addictive or dangerous as cigarettes. I know a few people who say that it is not as bad as cigarettes, but a pod is as much as 20 packs of cigarettes I think it was.

Madam Chair Lee: Well actually our clerk (Justin Velez) had information that tidies that up, can you tell us again please.

Justin Velez, Senate Human Services Committee Clerk, offering neutral testimony: One Juul pod is equal to a pack of cigarettes, a pack of cigarettes contains 20 cigarettes per pack but essentially you can blow on the Juul all day long whereas, a pack of cigarettes could last anywhere between 1-3 days depending on the smoker while a Juul pod could last a few hours if you are consistently smoking it throughout the day.

Senator O. Larsen: You were saying that they like the flavors. What kinds of flavors do they have?

Braydon Schmidt: There's mint, dragonfruit, tobacco flavor even. There are a few more that I don't know about but they just say that they like the flavoring, and they just keep puffing on it. It doesn't last that long and is just as addictive.

Madam Chair Lee: Do you see a lot of people using this in your school? Is it a fairly common thing?

Braydon Schmidt: I haven't seen it happen inside the school, I see it more outside of the school. Some kids that I do go to school with get a hold of these E-cigarettes and they just do it outside of school.

Senator Hogan: Do you think its acceptable?

Braydon Schmidt: I don't think it is okay but I think it is better than having a cigarette because of the tobacco and the tar that comes with a cigarette, I think is a lot worse than having an E-cigarette.

Senator Hogan: So you think there is a difference?

Braydon Schmidt: There is a difference, yes.

Senator K. Roers: Do people call people out on it, or is it kind of like no big deal.

Braydon Schmidt: They don't really call people out on it just because they view it as better and the smell isn't bad, you don't get that after smell you get from cigarettes.

Madam Chair Lee: I do want to read from this article from the Wall Street Journal; "The main public health problem is with teenagers. Over the past year alone U.S. E-cigarette use in middle and high school has grown more than 70% to 3.6 million according to the CDC national youth tobacco survey, even though the FDA regulations prevent sales to minors. The National Institute on Drug Abuse says it's the largest single yearly increase in use of a substance ever recorded. I think if youth use rises another 40-50% this year, congress will intervene, FDA commissioner Scott Godling tells me. I think we will lose our discretion to have this purely be a regulatory decision. That is why I find it disturbing and surprising that the industry doesn't recognize the existential threat they face and so the FDA is exercising enforcement discretion. The only reason E-cigarettes are on the market now without having filed successful pre-market tobacco applications."

(12:26-00:00) Mylynn Tufte, State Health Office with the Department of Health. Offering neutral testimony for SCR 4007. Testimony is as follows.

Recently released 2018 National Youth Tobacco survey showed that E-cigarette among high school students soared by 78% in just one year and we did see that a new study showed that among young adults who use E-cigarettes are more likely to become smokers later. Over half of all youth smokers and about 7-10 African-American smokers start and use menthol cigarettes.

Senator Hogan: What do you think about adding vaping to tobacco products?

Mylynn Tufte: Yes, our department supports that.

(15:00-16:23) Debbie Swanson, Director of the Grand Forks Public Health Department:

I have had a long history of working in tobacco prevention programs in the state and something that is very distressing to me is that is the rise of the use of E-cigarettes in our county. I do have data that shows that (Please see Attachment #1). We have made tremendous progress on traditional cigarettes being used in our county but what we are seeing is a disproportionate rise in the use of what we call electronic nicotine delivery systems. I would stand in support of this initiative. I am happy to answer any questions. I would also like to add that in the city of Grand Forks when we passed our smoke free ordinance we did define E-cigarettes as a tobacco product, so they are in city ordinance.

Senator Clemens: You stated that some counties are already treating it as a tobacco product.

Debbie Swanson: It is my understanding that is a possibility, we did it under our home rule authority in the city of Grand Forks when we enacted our smoke free law.

Senator K. Roers: For the treating it like a tobacco product is defining where you can smoke it. Its only for the smoke free indoor piece of it right? Not for the way you can advertise or tax it. Is that correct?

Debbie Swanson: In our ordinance it is defined for purposes of purchase also. It is for use in the smoke free law but also for the ability to purchase it.

Senator K. Roers: But you can't tax it like a tobacco product, correct?

Debbie Swanson: We do not have the authority to tax that is correct.

Madam Chair Lee closes the hearing on SCR 4007

2019 SENATE STANDING COMMITTEE MINUTES

Human Services Committee
Red River Room, State Capitol

SCR 4007
2/12/2019
Job # 32614

- Subcommittee
 Conference Committee

Committee Clerk: Justin Velez

Explanation or reason for introduction of bill/resolution:

A concurrent resolution urging congress and the Food and Drug Administration to end the marketing and advertising of e-cigarettes to youth.

Minutes:

Attachments # 1-3

(00:00-15:10) Madam Chair Lee opens the discussion on SCR 4007. Madam Chair Lee passes out **Attachments # 1-3** from Arizona, Wyoming, and Vermont regarding their regulations on vapor products or ENDS (electronic nicotine delivery systems). The committee goes over the attachments together to see what listed states above are trying to do in relation to the taxation, licensing, and permits of ENDS and the related supplies associated (batteries, E-liquids, etc.). The committee also goes over the possibilities of classifying the ENDS and associated supplies as tobacco products so that these devices and supplies would be treated as such. The committee comes to the conclusion that because the ENDS devices do not contain any tobacco; they would not be able to classify the ENDS devices or supplies associated as a tobacco product even though the ENDS devices may contain nicotine. The committee discussed that there are no federal restrictions preventing the sale and advertising of ENDS and/or E-Cigarettes to youth and decided that the resolution as written already request that the FDA would end the marketing and advertising of ENDS and/or E-Cigarettes to youth.

(15:13) Senator K. Roers: I move a **DO PASS**.
Seconded by Senator Hogan

ROLL CALL VOTE TAKEN
5 YEA, 0 NAY, 1 ABSENT
MOTION CARRIES DO PASS
Senator Hogan will carry SCR 4007 to the floor.

Madam Chair Lee closes the discussion on SCR 4007

**2019 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 4007**

Senate Human Services Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Sen. N. Roers Seconded By Sen. Hogan

Senators	Yes	No	Senators	Yes	No
Chair Lee	X		Senator Hogan	X	
Vice Chair Larsen	X				
Senator Anderson					
Senator Clemens	X				
Senator Roers	X				

Total (Yes) 5 No 0

Absent 1

Floor Assignment Sen. Hogan

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SCR 4007: Human Services Committee (Sen. J. Lee, Chairman) recommends **DO PASS** (5 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SCR 4007 was placed on the Eleventh order on the calendar.

2019 HOUSE HUMAN SERVICES

SCR 4007

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SCR 4007
3/19/2019
33958

- Subcommittee
 Conference Committee

Committee Clerk: Nicole Klaman by Donna Whetham

Explanation or reason for introduction of bill/resolution:

A concurrent resolution urging congress and FDA and end marketing and advertising of e-cigarettes to youth

Minutes:

Attachment 1,2.

Chairman Weisz: Opened the hearing on 4007.

Senator Judy Lee: Introduced SCR 4007. We can no longer see in print, cigarette or cigar advertising. We are urging Congress to control this. Just because there is no data saying it's dangerous doesn't mean it is not.

0:02:58

Rep. Bill Tveit: On Line 2 it says marketing and advertising to youth, so basically it is just going to try to eliminate that type of advertising or the attraction to youth or is it the intent to cut out all advertisement as we have done with other tobacco products?

Senator Lee: I would like it expanded to all tobacco products but I refer to your committee to how you would recommend that.

Chairman Weisz: Any further questions? Any further support of SCR 4007?

0:04:51

Neil Charvat, Director of Tobacco Prevention and Control Program for North Dakota Department of Health: In support of SCR 4007 reading testimony from Mylynn Tufte, North Dakota State Health Officer. **(See Attachment 1).**

(0:08:43)

Jack McDonald, North Dakota Society of Respiratory Care: This is the respiratory therapists group in the state hospitals and clinics. In support of SCR 4007. They would support any effort that would encourage less of the use of e cigarettes.

(0:10:00)

Genevieve Pompadour, Juul Labs: In support of SCR 4007. **(See attachment 2).** Committed to working with lawmakers as a transparent and responsible partner.

0:13:22

Rep Anderson: On your e commerce package, how do you do the two factor and facial technology and how do they age verify online?

Genevieve Pompadour: You sign in and you have to be age verified. You provide your government issued ID front and back and our company will text you a code to your cell phone. If you are under the age of 30 we will request a selfie to be sent in using that same cell phone. You could have a fake ID and this is how we would try to stop that from happening by sending the selfie. What has stopped a lot of these purchases by youths is if you utilize an ID and it is their Mom's not theirs, the credit card has to match letter for letter to the ID. If it is not matching you would not be able to purchase the product.

Rep. Rohr: Would you address the individual device traceability system?

Genevieve Pompadour Since JUUL has been around for only a little over 3 years we only still have our original first generation product. The next product will have blue tooth capability where hypothetically could have a transponder on a school building and the JUUL's would turn off and wouldn't be able to be used within a 50 feet area around the school. Also it would give traceability to see where the JUUL is. Say a school official or parent confiscates a JUUL they would be able to call the company and find out where that product was purchased. We would have the ability to trace it.

Chairman Weisz: Any further questions or support? Any opposition? Seeing none.

Hearing closed on SCR 4007.

2019 HOUSE STANDING COMMITTEE MINUTES

Human Services Committee
Fort Union Room, State Capitol

SCR 4007
3/19/2019
33960 (01:26-04:33)

- Subcommittee
 Conference Committee

Committee Clerk: Nicole Klaman by Donna Whetham

Explanation or reason for introduction of bill/resolution:

A concurrent resolution urging congress and FDA and end marketing and advertising of e-cigarettes to youth

Minutes:

Chairman Weisz: Opened hearing on SCR 4007.

Rep. Tveit: I move a Do Pass on SCR 4007.

Rep. Skroch: Seconded.

Rep. M. Ruby: The FDA is already regulating this and adjusting it. The definition for tobacco has been changed including e cigarettes and JUUL's even they don't have tobacco in them. They are very highly self-regulated. North Dakota shop owners didn't even sell to anyone under age 18 before we put that law into place. I don't feel this is needed so I will vote no.

Rep. Tveit: It is still being advertised on television etc. As I see it that is to stop that is the intent of this resolution.

Rep. M. Ruby: This just came out in November and they are just figuring it out how to include it in all the rest of the law. It is not going to be in newsprint or on television.

Chairman Weisz: Any further discussion? Seeing none.

Roll Call vote: Yes: 11 No: 1 Absent: 2. Motion carries for a Do Pass on SCR 4007.

Rep. Tveit: Will carry the bill.

Hearing closed.

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. SCR 4007**

House Human Services Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Rep. Tveit Seconded By Rep. Skroch

Representatives	Yes	No	Representatives	Yes	No
Robin Weisz - Chairman	X		Gretchen Dobervich	A	
Karen M. Rohr – Vice Chairman	X		Mary Schneider	X	
Dick Anderson	X				
Chuck Damschen	X				
Bill Devlin	X				
Clayton Fegley	X				
Dwight Kiefert	A				
Todd Porter	X				
Matthew Ruby		X			
Bill Tveit	X				
Greg Westlind	X				
Kathy Skroch	X				

Total (Yes) 11 No 1

Absent 2

Floor Assignment Rep. Tveit

If the vote is on an amendment, briefly indicate intent:

Motion carries.

REPORT OF STANDING COMMITTEE

SCR 4007: Human Services Committee (Rep. Weisz, Chairman) recommends **DO PASS** (11 YEAS, 1 NAYS, 2 ABSENT AND NOT VOTING). SCR 4007 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

SCR 4007

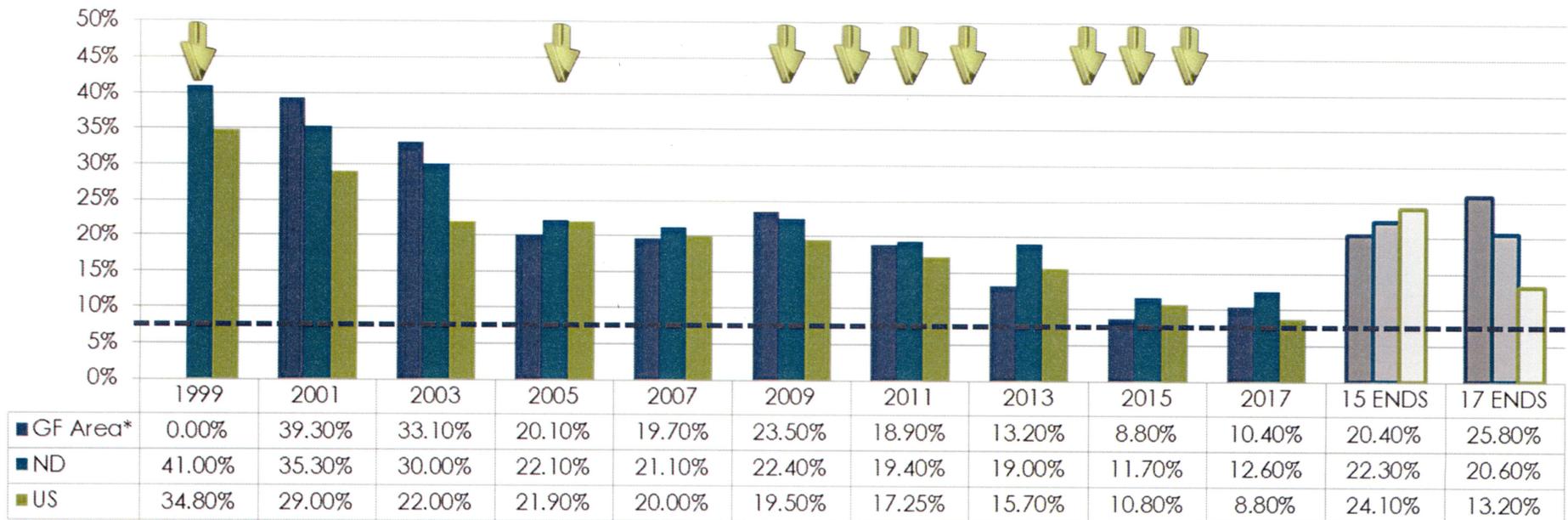
Youth Tobacco Use

GOAL:

Prevent initiation of tobacco use among young people.

BENCHMARK: Achieve a reduction in cigarette smoking by students in grades 9-12 from 19.5% to 16%. (Healthy People 2020)

OBJECTIVE: By June 2017, decrease cigarette smoking among North Dakota students grades 9-12 from 8.8% to 6%.



*Each blue arrow (↓) represents a significant state or local tobacco prevention policy initiative.



Public Health
Prevent. Promote. Protect.

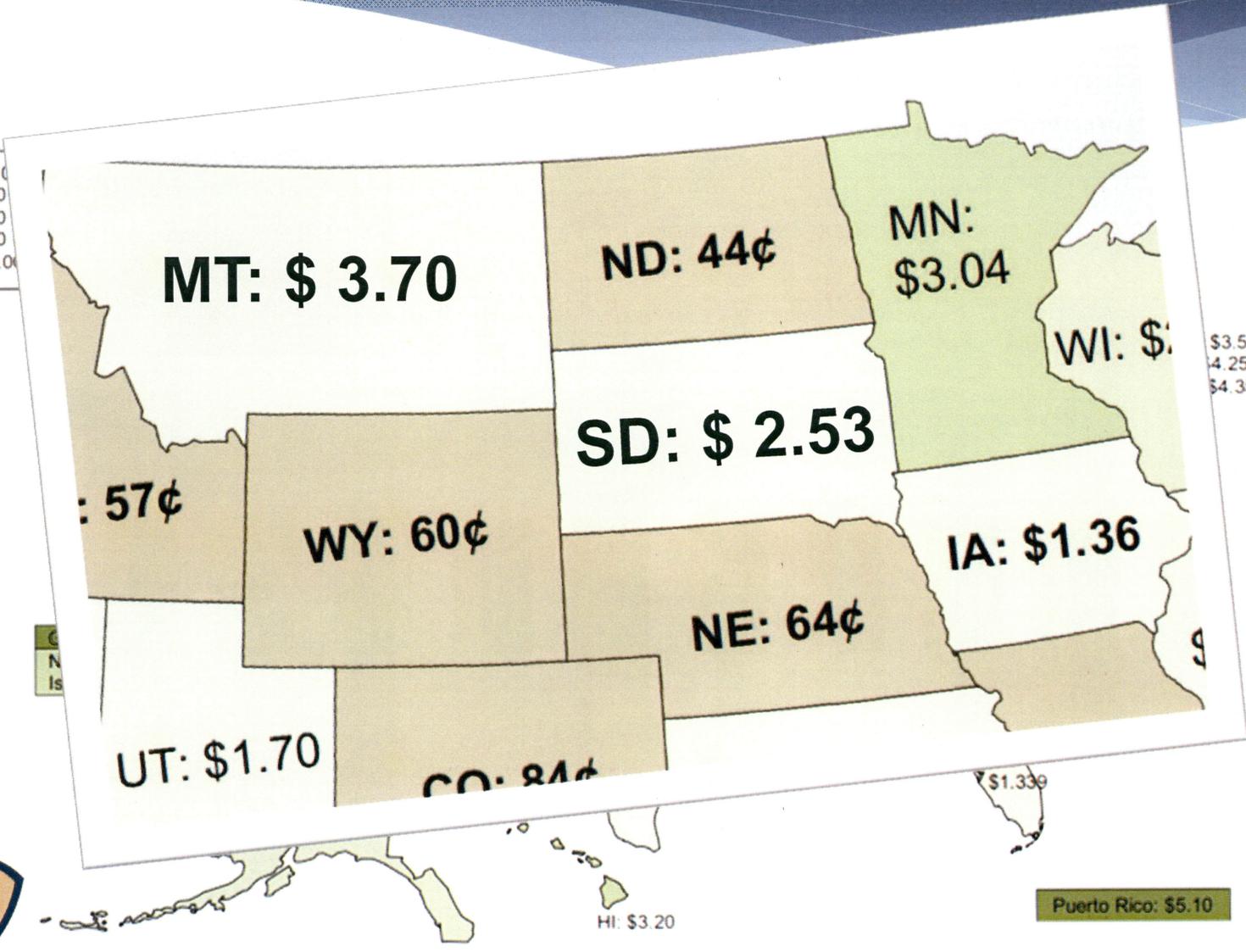
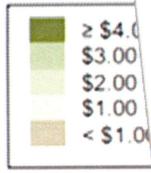
Grand Forks Public Health

*The Grand Forks Area represents 1 of 8 regions set by the North Dakota Dept of Public Instruction. Regional results are compiled based on voluntary participation within each respective region, and therefore cannot be compared from year to year.

Frequency: Biennial | Data Source: Nursing & Nutrition, Tobacco Prevention Program, 2017 ND Youth Risk Behavior Survey

Fall 2018

SCR 4007
2/6/19
#1 Pg. 2



Public Health
Prevent. Promote. Protect.

Grand Forks Public Health

SC# 4007
2/12/19
#1 Pg. 1



ARIZONA HOUSE OF REPRESENTATIVES

HB 2073: vapor products; e-liquids; regulation; permits

PRIME SPONSOR: Representative Shope, LD 8

BILL STATUS: [Health and Human Services](#)

Overview

Adds a new article to Title 36 establishing the statutory framework for the regulation of e-liquids and vapor products.

History

The Arizona Department of Health Services (DHS) Division of Licensing Services licenses and monitors health and child care facilities and providers throughout Arizona. In addition, the Bureau of Special Licensing issues over 5,000 licenses for speech and hearing professionals, midwives, group homes for individuals living with developmental disabilities and medical marijuana dispensaries. In addition, the Bureau certifies DUI and Domestic Violence services. Licensing inspections, on-site surveys, and complaint investigations are conducted to promote quality care and safety and ensure that performance standards are met.

Provisions

DHS Responsibilities

1. Authorizes DHS to:
 - a. Require the submission of information necessary for the implementation of these outlined provisions;
 - b. Issue permits;
 - c. Charge fees, which may not exceed costs incurred by DHS;
 - d. Approve or deny permit applications within 60 days; and
 - e. Adopt rules needed to implement and enforce the outlined provisions. (Sec. 1)

Manufacturer, Distributor and Retailer Requirements

2. Prohibits manufacturers, distributors, and retailers from packaging, distributing, or selling e-liquids or vapor products without a valid permit from DHS that will be valid for the following amount of time from the date of issuance:
 - a. Five years for a manufacturing permit; or
 - b. One year for a distributor and retailer permit. (Sec. 1)
3. Requires a manufacturer comply with federal tobacco products [Good Manufacturing Practices](#) as stated in the Federal Food, Drug and Cosmetic Act. (Sec.1)
4. Requires a manufacturer, distributor and retailer of e-liquids and vapor products to include the following on permit applications:
 - a. The applicant name, telephone number and addresses;
 - b. The facility name, telephone number and addresses; and
 - c. The name, telephone number and title and address of the person responsible for the facility. (Sec. 1)
5. Outlines nonrefundable permit application fee of:
 - a. \$1,000 for a manufacturer permit;

<input type="checkbox"/> Prop 105 (45 votes) <input checked="" type="checkbox"/> Prop 108 (40 votes) <input type="checkbox"/> Emergency (40 votes) <input type="checkbox"/> Fiscal Note

- b. \$500 for a distributor permit; and
 - c. \$150 for retailer permit. (Sec. 1)
6. Requires the applicant or permittee to notify DHS within 10 business days if any required information changes and allows DHS to impose a civil penalty if the changed information results in a violation of these provisions. (Sec. 1)
 7. Stipulates all fees collected be deposited in the Vapor Products Regulatory Fund (Fund). (Sec. 1)
 8. Allows for the transfer of a permit between the permittee to another person or from the location to another location if the permit has not been suspended or revoked and the new permittee and location meet all outlined requirements. (Sec. 1)

Marketing and Labeling Requirements

9. Requires e-liquid manufacturers to:
 - a. Use child-proof caps that follows federal poison prevention packaging standards on all e-liquid containers;
 - b. Use a tamper-evident package on all e-liquid containers to ensure the package remains intact when handled in a reasonable manner throughout the manufacturing, distributing and retail process;
 - c. Ensure the label on an e-liquid container meets the nicotine addictiveness warning statement requirements under federal regulations;
 - d. Have a separate designation on the label, if the product contains nicotine; and
 - e. Include the following information on the label or containers for e-liquids:
 - i. An identifiable and trackable code;
 - ii. The date of manufacture; and
 - iii. The required statement, "WARNING: This product contains nicotine. Nicotine is an addictive chemical." if nicotine is in the product. (Sec. 1)
10. Allows manufacturers to use flavoring in e-liquids. (Sec. 1)
11. Prohibits manufacturers, distributors, and retailers from adding an adulterated product to any e-liquid produced for sale. (Sec. 1)
12. Allows DHS to randomly visit a manufacturer, distributor, or retailer. (Sec. 1)
13. Prohibits production and sale of a product that is knowingly attractive to minors and requires signage posted, banning unaccompanied minors from the establishment and banning the sale of products to minors. (Sec. 1)
14. Requires a retailer to display vapor products behind a counter or in an enclosed display, inaccessible without assistance from a sales representative. (Sec. 1)
15. Prohibits marketing directed at minors. (Sec. 1)

Record Requirements

16. Requires any person who sells e-liquids and vapor products to have a valid retailer permit. (Sec. 1)
17. Permits a retailer to purchase e-liquids or vapor products from a manufacturing permittee or distributor permittee. (Sec. 1)
18. Requires a retailer to retain all invoices for e-liquids and vapor products for two years. (Sec. 1)
19. Prohibits a retailer from selling an e-liquid that contains more than 75 milligrams per milliliter of nicotine. (Sec. 1)
20. Requires manufacturers to submit an annual report to DHS including:

- a. Each new product the manufacturer is producing and selling;
 - b. Products that are no longer being produced or sold;
 - c. The milligrams per milliliter of nicotine per product produced; and
 - d. The milliliters of each product sold in the current year. (Sec. 1)
21. Specifies that a manufacturer's report submitted under this section is confidential. (Sec. 1)
 22. Stipulates that a manufacturer is not required to submit the report if the manufacturer certifies to DHS by October 1 of each year that the e-liquids or vapor products sold have been filed with the United States Food and Drug Administration (FDA). (Sec. 1)
 23. Allows a manufacturer, distributor and retailer to sell an e-liquid or vapor product manufactured before the effective date and 90 days after the effective date of this section without meeting the requirements of this section. (Sec. 1)

Identification and Delivery Requirements

24. Requires a retailer to first verify the purchaser is not a minor before sale or delivery of the product by either examining the person's government-issued photographic identification or using a third-party age verification service. (Sec. 1)
25. Stipulates a minor may not possess an e-liquid or vapor product, and a minor in possession of an e-liquid or vapor product is guilty of a petty offense. (Sec. 1)
26. Prohibits a retailer from making a delivery sale of an e-liquid or vapor product to a minor and shipping an e-liquid or vapor product before making a good faith effort to verify the age of purchaser. (Sec. 1)
27. Permits a retailer to ship an e-liquid or vapor product only to a purchaser after being paid in full and requires a retailer to accept a check, credit card or debit card in the purchaser's name as a form of payment. (Sec. 1)
28. Allows a retailer to request the email address of the purchaser prior to taking the delivery sale order. (Sec 1)

Penalties

29. Authorizes DHS to impose a civil penalty or suspend or revoke a permit for any violation of this article by a manufacturer, distributor or retailer. (Sec. 1)
30. States that any provision that requires manufacturers comply with federal rule or law is under the sole jurisdiction of the FDA. (Sec. 1)
31. Stipulates if the FDA seeks court enforcement of any federal rule or law and a civil penalty is assessed against the manufacturer, the act or omission for which the penalty was assessed constitutes a violation. (Sec. 1)
32. Authorizes DHS to impose a civil penalty of not more than \$10,000 against a manufacturer, distributor or retailer for violation. (Sec. 1)
33. Allows a civil penalty to be imposed in addition to other penalties. (Sec 1.)
34. Outlines the following penalties for knowingly and intentionally selling an e-liquid or vapor product to a minor, or negligently failing to verify the age of the person purchasing a product as follows:
 - a. \$250 for the first violation in a 24-month period;
 - b. \$2,500 for the second violation in a 24-month period;
 - c. \$5,000 for the third violation in a 24-month period; and

- d. Permanent revocation of the retailer's permit for the fourth violation in a 24-month period. (Sec. 1)
- 35. Prohibits claiming that the person to whom the e-liquid or vapor product was sold did not inhale or consume the product, as a defense from violation of this section. (Sec. 1)
- 36. Authorizes defenses to a retailer permittee accused of selling or distributing an e-liquid or vapor product to a minor if a valid driver license, state or federal issued photographic identification card that was produced showing the purchaser or recipient was of legal age. (Sec. 1)
- 37. Allows a defense to a violation that the accused retailer sold or delivered a product to a person who acted in the ordinary course or business concerning e-liquids or vapor products in any of the following:
 - a. Agriculture;
 - b. Processing;
 - c. Transporting;
 - d. Wholesaling; and
 - e. Retailing. (Sec. 1)
- 38. Provides that all civil penalties collected be deposited in the Fund. (Sec. 1)
- 39. Requires DHS to impose the following civil penalties against a person who sells an e-liquid or vapor product without a permit issued pursuant to this article in this state:
 - a. A minimum of \$1,000 for the first violation;
 - b. A minimum of \$5,000 for the second violation; and
 - c. \$10,000 for the third violation. (Sec. 1)
- 40. Identifies the selling of an e-liquid or vapor product without a permit on public or private school property as a Class 1 misdemeanor. (Sec. 1)

Vapor Product Regulatory Fund

- 41. Establishes the Fund in DHS, which consists of all fees and civil penalties collected pursuant to this article, to be administered by the director. (Sec. 1)
 - 42. Subjects the Fund to legislative appropriation. (Sec. 1)
 - 43. Exempts monies in the Fund from lapsing. (Sec. 1)
- Other***
- 44. Defines terms. (Sec. 1)
 - 45. Contains a Proposition 108 clause. (Sec. 2)

SCR 4007
2/12/19
#2 pg.1

Good afternoon North Dakota--

Wyoming is going through the growing pains with vaping as well. We do not have license requirement; however, it has been a point of discussion. No penalties or fines at this time. This past week, an amendment to a tobacco tax bill was approved allowing vaps to be taxed at the same rate as other tobacco products; I believe this will meet with full approval.

Cities and towns are contemplating ordinances that may try to restrict the age of vaping as there are stories that vaping is done at the elementary school level. Below 18 years of age seems to be the agreed upon age for such restrictions, If anyone has a model ordinance please share.

As you likely know, vap products can be obtained online, from someones car trunk, on the corner. etc. and there are no controls. I have heard that some vaps include hemp products, and other more potent drugs.

I wish I had a creative idea to offer, it seems education is not working on the perils of this product use. Peoples health and well being is at risk.

Blake:

Here are the references in Vermont – from what I can tell, the tobacco substitute license is paid to the municipality at \$50 per license. Violation of that statute is a misdemeanor with the first offense penalty no more than \$200 and subsequent offenses no more than \$500. The other statutory references are an attempt to keep vaping away from minors, but I didn't see anything related to a penalty imposed upon a minor for vaping, but it's possible I missed it. Apparently, these laws are just developing here as in other areas, and the legislature just passed the license provision last year. Hope this helps.

Maura

Is a retail license or permit required to sell e-cigarettes?

Yes.

[7 Vt. Stat. Ann. § 1002\(a\) \(2018\)](#)

What smoke-free restrictions exist for e-cigarette use?

Use of tobacco substitutes restricted similar to smoking and prohibited in public places, including, indoor public places, grounds of publicly-owned and hospital buildings and within 25 feet of any state owned building, and in workplaces (with some exceptions).

[18 Vt. Stat. Ann. §§ 1742; 1743; and 1421\(a\) \(2018\)](#)

Use of tobacco substitutes prohibited at child care facilities and afterschool programs.

[33 Vt. Stat. Ann. § 3504\(a\) \(2018\)](#)

Use of tobacco substitutes prohibited on "public school grounds" and at sponsored events.

[16 Vt. Stat. Ann. § 140 \(2018\)](#)

Use of tobacco substitutes prohibited in cars occupied by a child under 18 years of age.

[23 Vt. Stat. Ann. § 1134b\(a\) \(2018\)](#)

Good morning Chairman Weisz and members of the House Human Services Committee. My name is Mylynn Tufte. I serve as the State Health Officer, agency lead for the North Dakota Department of Health. I am here to provide testimony in support of Concurrent Resolution 4007, which urges Congress and the Food and Drug Administration to end the marketing and advertising of e-cigarettes to youth.

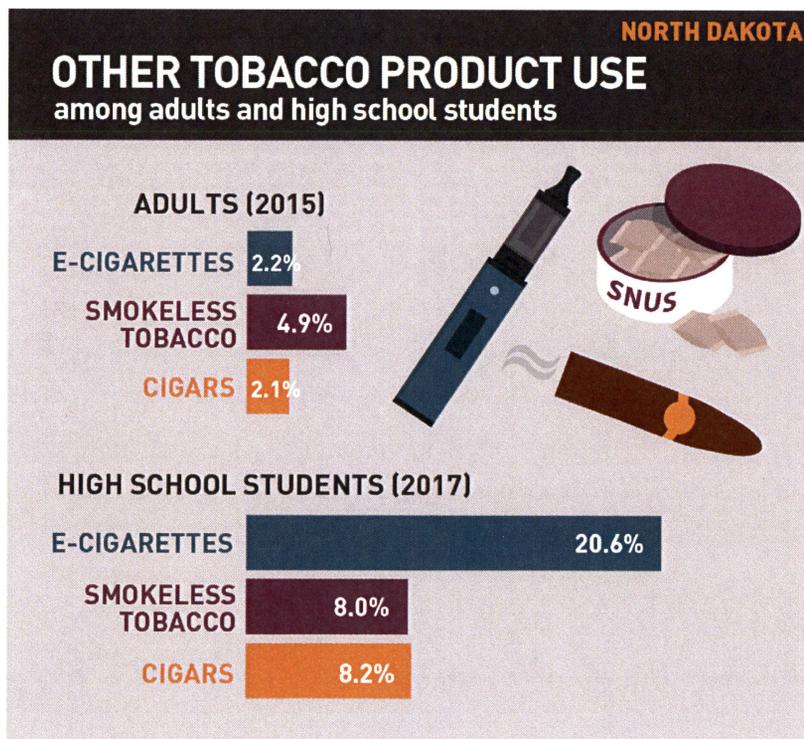
In a [March 13, 2019, statement by FDA Commissioner Dr. Scott Gottlieb, MD](#), agrees to continue implementing a comprehensive strategy that includes, "*prioritization of enforcement of unauthorized electronic nicotine delivery systems (ENDS) that are targeted to minors or likely to promote use of ENDS by minors.*"

This may have been in response to the [February 5th joint press release](#) by The American Cancer Society, American Cancer Society Cancer Action Network, American Heart Association, American Lung Association, Campaign for Tobacco-Free Kids, Public Law Health Center and Truth Initiative stating the FDA hasn't done enough to protect kids and save lives. From this statement:

"The recently-released 2018 National Youth Tobacco Survey showed that current e-cigarette use among high school students soared by 78 percent in just one year (to 20.8 percent), and more than 3.6 million middle and high school students now use e-cigarettes. The annual Monitoring the Future survey found that youth vaping of nicotine nearly doubled in 2018 among 12th and 10th graders – the single largest increase in youth use of any substance in the survey's 43-year history. A growing number of studies – including a new study published February 1, 2019, in the [journal JAMA Network Open](#) – show that young people who use e-cigarettes are more likely to become smokers later, and many of these are low-risk youth who would not have otherwise used cigarettes. This is a serious public health threat that cannot be ignored. As Health and Human Services Secretary Alex Azar has stated, "These new data show that America faces an epidemic of youth e-cigarette use, which threatens to engulf a new generation in nicotine addiction."

There is also overwhelming scientific evidence to support a prohibition on menthol cigarettes. As the FDA itself concluded in a comprehensive 2013 report, the evidence shows that menthol cigarettes lead to 1) increased smoking initiation among youth and young adults; 2) greater addiction; and 3) decreased success in quitting smoking. "These findings, combined with the evidence indicating that menthol's cooling and anesthetic properties can reduce the harshness of cigarette smoke and the evidence indicating that menthol cigarettes are marketed as a smoother alternative to nonmenthol cigarettes, make it likely that menthol cigarettes pose a public health risk above that seen with nonmenthol cigarettes," the FDA's report concluded.

According to the [2017 Youth Risk Behavioral Survey](#), North Dakota data showed 20.6 percent of high school students used e-cigarettes, 8.0 percent used smokeless tobacco and 8.2 percent smoked cigars on at least one day in the past 30 days. Nationally, the rates were 13.2 percent, 5.5 percent and 8.0 percent, respectively.



For these reasons, we ask you to support passage of Concurrent Resolution 4007. This concludes my testimony. I am happy to answer any questions you may have.



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Chairman Weise and Members of the Human Services Committee,

On behalf of JUUL Labs, thank you for the opportunity to submit testimony in support of Concurrent Resolution number 4007.

JUUL Labs' mission is to improve the lives of the world's one billion adult smokers by eliminating cigarettes. This mission is driven by the fact that smoking is the number one cause of preventable death worldwide. In the United States alone, smoking kills approximately 480,000 people every year.

We share a common goal with policymakers, regulators, parents, school officials, and community stakeholders - **prevent the use of tobacco and vapor products, including JUUL, by America's youth.** We are committed to stopping youth access of JUUL products, and no young person or non-nicotine user should ever try JUUL.

In November of 2018, we began implementing a number of significant voluntary actions, as outlined in our [Action Plan](#), to address youth access,



appeal, and use of JUUL products. This included a major reset of how JUUL Labs markets and sells its products, requiring automated sales controls to limit the purchase of certain flavored products to adults 21+. Currently, we only sell these products through our ecommerce platform (JUUL.com), where we utilize sophisticated automated technology, supported by third-parties, to ensure purchasers are 21+ and to prevent bulk purchases.

We also eliminated our U.S. Facebook and Instagram accounts, and are developing new technology to further limit youth access and use. We are committed to working with lawmakers, the Surgeon General, FDA, state Attorneys General, local municipalities, and community organizations as a transparent and responsible partner in this effort. We believe that these efforts combined with increasing the minimum age to purchase tobacco and vapor products to 21, will drastically reduce youth access of JUUL products.

JUUL products are assembled in the United States under the highest standards of manufacturing in a clean room setting. Preliminary health risks linked with e-cigarettes have been linked to 2 chemicals NOT found in JUUL



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pods. A 2015 study by the Harvard School of Public Health found that many of the vapor products produced by other manufacturers may contain these potentially harmful ingredients.

At JUUL Labs, we are focused on creating an alternative to combustible cigarettes that provides an off ramp for adult smokers. We recognize that we cannot do this without also actively working to pass proven legislative measures that prevent youth from using tobacco products, including JUUL. We are actively engaged in many states and jurisdictions to support and pass Tobacco 21 legislation. We applaud the state for creating stiffer penalties on those that furnish these products to minors, encompassed in HB 1477 which is currently moving through the process.

We look forward to working with you and North Dakota's congressional delegation to curb youth usage in the state.

Thank you.



JUUL LABS ACTION PLAN

Honoring Our Commitments

STOPPING FLAVORED JUULPOD SALES TO TRADITIONAL RETAIL

- ✓ **COMPLETED** | JUUL Labs stopped sales of four flavored JUULpods – Cucumber, Fruit, Creme and Mango – to more than 90,000 retail stores in November, restricting the products to our 21+ age-gated website.

ENHANCING OUR 21+ ECOMMERCE PLATFORM

- ✓ **COMPLETED** | We have further enhanced our industry-leading online age-verification system, adding two-factor authentication and facial-recognition technology to verify purchasers are at least 21.

STRENGTHENING RETAIL COMPLIANCE

- ✓ **COMPLETED** | We have established escalating penalties against retailers that fail FDA age-verification compliance checks, including potential permanent sales bans.

STOPPING UNAUTHORIZED ONLINE SALES

- ✓ **COMPLETED** | This year alone, JUUL Labs has worked to remove more than 25,000 third-party listings of JUUL products and counterfeits.

EXITING SOCIAL MEDIA

- ✓ **COMPLETED** | We have eliminated our U.S.-based Facebook and Instagram accounts and restricted the use of Twitter to non-promotional communications.



JUUL LABS ACTION PLAN

Honoring Our Commitments

STRENGTHENING RETAIL COMPLIANCE

-  **ONGOING** | Along with escalating penalties against retailers caught by the FDA, we're also stepping up our own monitoring. We are quadrupling our "secret shopper" program of retailers to ensure that they will not sell our product to minors or make bulk sales that might find their way into the hands of minors.

STOPPING UNAUTHORIZED ONLINE SALES

-  **ONGOING** | We have filed complaints in the United States International Trade Commission (ITC) against more than two-dozen entities based around the world for selling copycat JUUL products and "JUUL compatible" pods that are often marketed in kid-appealing flavors, and will continue to go after these manufacturers for infringing on our intellectual-property rights.

DEVELOPING NEW TECHNOLOGY TO TRACK PRODUCTS AND FURTHER LIMIT YOUTH ACCESS AND USE

-  **ONGOING** | We are building out an individual-device traceability system to track JUUL products throughout the distribution channel, enabling us to identify and penalize bad-actor retailers that sell to youth.